**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CIVIL WRIT PETITION NO.2070/06

Ram Chandra Yadav **Versus** State & Ors.

DATE OF ORDER :: 06/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Manoj Pareek, for petitioner
Mr. B.K. Sharma, Dy.G.A.

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Instant petition has been filed assailing the order Ann.2 dated 6th February, 2002 whereby first selection scale, which was granted to him on completion of 9 years of service vide order Ann.1 dated 3rd August, 1999, has been cancelled and it has been further ordered to make recovery from his salary.

Petitioner as alleged in the petition was appointed on daily wages basis on 1st December, 1971 and was declared semi-permanent on 1st December, 1973 on completion of two years service and was accorded permanent status w.e.f. 31st March, 1982. He has been granted first selection scale on completion of 9 years of service vide order Ann.1 dated 3rd August, 1999, but the same was cancelled by the respondents vide order Ann.2 dated 6th February, 2002.

Main thrust of submission of counsel is that once he was fixed in the selection scale vide

order Ann.1 dated 3rd August, 1999, rights have been conferred in his favour and before passing order Ann.2, while cancelling order Ann.1, no opportunity was afforded to him. Such action is violative of principles of natural justice and this fact has been specifically averred by petitioner in Sub-Para B of writ petition.

Respondents have filed reply to the writ petition wherein justification has been shown that the order granting first selection scale on completion of 9 years of service was cancelled, but there is no counter as to whether petitioner was at all afforded opportunity before order impugned Ann.2 was passed, certainly it has caused prejudice to him.

It is cardinal principle of administrative law that no one should be condemned unheard. Certainly in the instant case, rights have been conferred in favour of petitioner by virtue of order Ann.1 whereby he was granted first selection scale on completion of 9 years of service and fixation in the pay scale was also made and arrears was also paid to him.

In my considered opinion, respondents were not justified in passing order impugned Ann.2 dated 6th February, 2002 without affording reasonable opportunity of hearing to petitioner which was the minimum requirement under law.

Accordingly, the writ petition stands allowed. The order impugned Ann.2 dated 6th February, 2002 is hereby quashed and set aside. However, the respondents will be free to proceed afresh after affording opportunity to petitioner in accordance with law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.